

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: July 21, 1999
TIME: 9:00 am
PLACE: DLNR Board Room
Kalanimoku Building

Chairperson Timothy E. Johns called the meeting of the Commission on Water Resource Management to order at 9:15 a.m.

The following were in attendance:

MEMBERS: Mr. Timothy Johns
Mr. Herbert Richards, Jr.
Dr. Bruce Anderson
Mr. Robert Girald
Mr. Brian Nishida

EXCUSED: Mr. David Nobriga

STAFF: Ms. Linnel Nishioka
Mr. Roy Hardy
Mr. Edwin Sakoda
Mr. Eric Hirano
Mr. Dean Nakano
Mr. Glenn Bauer
Mr. David Higa
Mr. Charley Ice
Ms. Ingrid Kunimura
Ms. Faith Ching

COUNSEL: Mr. Edsel Yamada

OTHERS:

Karen Piltz
Rosemary Liu
Delwyn Oki

George Hiu
David Mikoncy

Manabu Tagomori
Donna Kiyosaki

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties. The items were not taken in the order posted on the agenda.

1. Minutes of the May 21 and June 16, 1999 meetings

Because Commissioner Nobriga was not present at this meeting, the minutes of the May 21, 1999 meeting were deferred.

Deputy Director Linnel Nishioka stated that for the May 21, 1999 meeting a detailed summary was compiled of some of the TAC member's comments and will be attached as an addendum to the report. Deputy Director Nishioka also stated that in the future with other technical advisory committees the same will be done.

Deputy Director Nishioka made a correction to the minutes of the June 16, 1999 meeting. On page 3 of the minutes, Item 4, recommendation number 3 should be deleted and the remainder of the recommendations renumbered to 3, 4, and 5.

Because there were only 4 Commissioners present at the June 16 meeting and because Dick Cox's term expired, Deputy Director Nishioka checked with the Department of the Attorney General and was told that if new Commissioner Brian Nishida listened to the tape, he could vote on the minutes. Commissioner Nishida did listen to the tapes, therefore, he will be able to vote on the minutes of June 16, 1999.

MOTION: (Richards/Nishida)

To approve the minutes of June 16, 1999 as amended.

UNANIMOUSLY APPROVED AS AMENDED.

2. Old Business/Announcements

Deputy Director Nishioka welcomed new Commissioner, Brian C. Nishida, and returning Commissioner, Herbert Richards, Jr. Commissioner Nishida is the Chief Operations Officer of Del Monte. The formal swearing-in for Brian is on July 28 and Monty's formal swearing-in is on August 13 in Hilo.

The first personnel announcement was the appointment of Deputy Director Nishioka's secretary, Faith Ching. The second announcement was recognition of CWRM staff members. At every Oahu meeting, someone from the staff will be introduced to the Commission to inform them of what they are doing for the Commission. Ms. Nishioka introduced Ingrid Kunimura who is the one responsible for all the beautiful GIS maps. Most of the learning that Ingrid accomplished has been on her own such as attending GIS mapping classes and workshops.

Deputy Director Nishioka announced the upcoming events of future meetings. Next month, the Commission will be meeting in Honokaa, Hawaii. She stated that staff is requesting a status report from the Dept. of Agriculture (DOA) on the Hiilawe Falls fix and related Lower Hamakua Ditch restoration project. DOA may come in with a request to the Commission regarding the deadline that was set last year for them to complete the work. There has been some significant progress over the last quarter. Also, a presentation will be given on the complaints filed by Earthjustice on the Lower Hamakua and Lalakea Ditches.

Deputy Director Nishioka said that the Commission will also plan to come up with a penalty policy that Commissioner Anderson requested. A staff member is working on it. We intend to come back with a penalty policy for the Commission's review and approval. She stated that the penalty policy would be able to set the direction and give consistency to how we

determine penalties so people will not have questions. It will be a useful policy for the Commission.

The September meeting will cover various things relating to the Waiahole Contested Case. We are on track with the 3 TACs. The Commission will have reports from the hydrology and engineering/agriculture committees. We will also have a Waiahole Contested Case Hearing briefing which the Commissioners requested.

Deputy Director Nishioka stated that as requested and directed at the last Commission meeting, the continued public hearing on Kamehameha School Bishop Estate's Waiawa Tunnel water use permit is scheduled for September, 1999.

On a side note in the Waiahole case, Deputy Director Nishioka stated that the Supreme Court has scheduled a session to discuss oral arguments about the case to be held on July 23. A memo was sent to the Commissioners of past and present to keep them informed of what is happening.

On August 10, Commissioner Richards is scheduled to go to Molokai to close the public hearing on DHHL's pending application in the Kualapuu Ground-Water Management Area.

3. **Stanley and Frances Ort, APPLICATION FOR A WATER USE PERMIT, Puko'o Farm Well (Well No. 0447-02), TMK 5-7-7:75, Domestic and Irrigation Use of 2,500 gpd, Ualapu'e Ground-Water Management Area, Molokai**

PRESENTATION OF SUBMITTAL: Mr. Charley Ice

RECOMMENDATIONS:

Staff recommends that the Commission approve the issuance of an interim five-year water use permit to Stanley and Frances Ort for the reasonable and beneficial use of 2,500 gallons per day of potable water for domestic and irrigation use from the Puko'o-Ort Well (Well No. 0447-02), subject to the standard water use permit conditions listed in Attachment B and the following special conditions:

1. Should an alternate permanent source of water be found for this use, then the Commission reserves the right to revoke this permit, after a hearing.
2. A final determination of the water use quantity shall be made within five years of the filing date of the application (May 7, 1999) to continue the existing use.
3. In the event that the tax map key at the location of the water use is changed, the permittee shall notify the Commission in writing of the tax map key change within thirty (30) days after the permittee receives notice of the tax map key change.

Chairman Johns asked staff to do a field inspection of the area to quantify the spring mentioned in the submittal because there are likely to be additional requests in the area where there are fishponds makai of the proposed well, and we are going to have to face this

more and more, especially if we're going to encourage more fishponds. It is an issue that's going to come up again so we may want to develop some type of protocol.

MOTION: (Richards/Girald)
To approve the submittal.
UNANIMOUSLY APPROVED.

4. **Mr. William Valente, Application for an After-the-Fact Stream Channel Alteration Permit, (SCAP-KA-284), Construction of a Rubble Revetment, Unnamed Stream, Anahola, Kauai (TMK 3-5-4:36)**

PRESENTATION: Mr. Roy Hardy

Mr. Hardy made a correction to the submittal in that it was not an After-the-Fact Stream Channel Alteration Permit.

RECOMMENDATION:

That the Commission approve a stream channel alteration permit for an ungrouted rip rap at an unnamed stream at Anini Beach Kauai (TMK 3-5-4:36), subject to the following special condition:

The applicant shall prepare a Best Management Practices Plan (BMPP) to minimize water pollution. The BMPP shall be acceptable to the Department of Health, and the applicant shall provide the Commission with a copy of written documentation indicating the BMPP is acceptable to the Department of Health.

The permit duration of the permit shall be for two (2) years subject to the standard stream channel alteration permit conditions in Exhibit 7.

Commissioner Anderson stated that it might be helpful in future cases to have contour maps so we have a sense on how the stream may flow within an existing natural channel.

MOTION: (Richards/Nishida)
To approve the submittal.
UNANIMOUSLY APPROVED.

5. **Mr. Chester Kahapea, Application for After-the-Fact Stream Channel Alteration Permit (SCAP-OA-280), Modification of a Rock Retaining Wall and Channel Enlargement, Maakua Stream, Hauula, Oahu, (TMK 5-4-02:24)**

PRESENTATION: Mr. Roy Hardy

RECOMMENDATION:

That the Commission:

- a. Find the applicant in violation of Hawaii Revised Statutes (HRS) 174C-71(A)(3) for constructing a retaining wall in Maakua Stream channel without a stream channel alteration permit.
- b. Impose no fine on the applicant since the violation does not appear to be willful.
- c. Inform the applicant in writing that future violations of HRS §174C-71 by this applicant may be considered willful and subject to penalties of up to \$1,000 per day per violation.
- d. Approve an after-the-fact stream channel alteration permit for a concrete rubble masonry wall in Maakua Stream, Hauula, Oahu (TMK 5-4-02:24), subject to the standard Stream Channel Alteration Permit Conditions in Exhibit 7.

TESTIMONY BY APPLICANT:

Richard Wurdeman and Mr. Kahapea stated that the State closed the area to hikers because of the danger that it posed. It is an intermittent stream. There are flows about 3 to 4 times a year. When the flows come down, it is extremely rapid. The modifications that were done to the preexisting walls extending half way into the stream was a tremendous threat. In addition, the stream flow had been going over the wall.

MOTION: (Girald/Richards)

To approve the submittal.

UNANIMOUSLY APPROVED.

6. **Request for Approval to Conduct Public Hearing for the Re-evaluation and Adoption of New Sustainable Yields for Ewa-Kunia and Waipahu-Waiawa Aquifer Systems, Pearl Harbor Aquifer Sector, Oahu**

PRESENTATION: Mr. Eric Hirano

RECOMMENDATION:

Staff recommends that the Commission:

Initiate and complete the public hearing process on the re-evaluation and adoption of new sustainable yields for the Ewa-Kunia and Waipahu-Waiawa Aquifer Systems, Pearl Harbor Aquifer Sector, Oahu, based on staff's recommendation as set forth in this submittal.

Chairperson Johns commended USGS and the Board of Water Supply for all of their efforts in coming to this point. He encouraged staff to continue to work with both parties. Also, he encouraged staff to work in partnership and have good communication with Agricultural Development Corporation and the Dept. of Agriculture.

Chairperson Johns said that we need to integrate the monitoring and the management criteria in a way that we can try to move toward more predictive capabilities and if it means refining

the models then that's fine, but we need to continue to work with USGS in trying to improve this.

Commissioner Anderson suggested that it would be helpful to receive comments and responses from the interested agencies. It is important that these issues be addressed and not left hanging with the assumption that there will be further discussions. Commissioner Anderson would also like to see staff's response to the USGS's comments.

Mr. Manabu Tagomori of KSBE commented that staff is doing good work and the Commission is encouraging staff to meet with all the parties. He stated that this is a good road map to where the Commission is headed for. He felt that the proposed sustainable yield and benchmark numbers are too conservative.

Ms. Donna Kiyosaki of the Board of Water supply stated that they will continue to work with USGS and the Commission.

Delwyn Oki of USGS informed the Commission that based on their work, the proposed sustainable yield and benchmark numbers set for the Pearl Harbor Sector may not be conservative.

Commissioner Anderson requested that the CWRM staff should send a detailed reply to the USGS, letter included, with the submittal.

MOTION: (Richards/Girald)
To approve the submittal.
UNANIMOUSLY APPROVED

Chairperson Johns adjourned the meeting at 11:45 am.

Respectfully submitted,

FAITH F. CHING
Secretary

APPROVED AS SUBMITTED:

LINNEL T. NISHIOKA
Deputy Director